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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,413	02/06/2004	Christiaan H.P. Dirks	4662-269	2078

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NIXON & VANDERHYE, PC
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ARLINGTON, VA 22203

EXAMINER

REIMERS, ANNETTE R

ART UNIT	PAPER NUMBER
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3733

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/772,413

Applicant(s)

DIRKS *ET AL.*

Examiner

Annette R. Reimers

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6, 9-15 and 17-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Pierson et al. (U.S. Patent Number 5,797,915).

Pierson et al. disclose a method for tying together at least two bone parts, using a high molecular weight polyethylene fiber surgical cable of finite length, 102, wherein the cable which is a closed loop flat braided high performance, having two end parts, around at least part of the objects to be tied together, connecting the end parts of the cable together at e.g. 108, exerting a force on the two end parts, the objects with the help of a device (see column 2, lines 62-67) and locking the cable against the influence of forces acting counter to the exerted force, wherein the exerted force is a torsion force, and the exerted force comprises a drawing force and a twisting force (see various embodiments demonstrated in figures 1-7, column 1, lines 48-63, column 2, lines 28-67 and column 3, lines 1-43).

The cable is twisted having an eye/knot, e.g. 550, at one end, the torsion force is exerted on the cable through the eye and a torsion force is exerted on the cable below the knot (see alternate embodiments disclosed in figures 5A-6C). Furthermore, the

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cable can be a loop of fibers, which is folded around the bone parts forming two returning ends in the cable as end parts (see column 2, lines 45-61). Moreover, the torsion force is exerted on the cable through the returning ends and on a twisting device, e.g. 106, running through the return ends (see various embodiments disclosed in figures 1-7).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 and 7 are is rejected under 35 U.S.C. 103(a) as being unpatentable over Pierson et al. (U.S. Patent Number 5,797,915) in view of Dunn et al. (U.S. Patent Number 4,790,850), cited by applicant on 1449.

Pierson et al. disclose the claimed method except for the cable having an eye at both ends. Dunn et al. disclose a method for tying objects together wherein the cable has an eye at both ends and teach the use of two eyes to improve the connection between the cable and bone (see column 3, lines 33-34). It would have been obvious to one skilled in the art at the time the invention was made for the method of Pierson et al., to include eyes at both end of the cable, in view of Dunn et al., to improve the connection between the cable and bone.

Claims 8, 16 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pierson et al. (U.S. Patent Number 5,797,915) in view of Crouch et al. (US Patent Number 4,788,814), previously cited by examiner.

Pierson et al. disclose the claimed method except for the loop of fibers being closed by a splice, the splice comprising an air splice and the two end parts being connected by a splice.. Crouch et al. disclose a method using air splicing and teach the use of air splicing to connect the trailing end to the leading end of the yarn (see abstract). It would have been obvious to one skilled in the art at the time the invention was made for the method of Pierson et al., to include the loop of fibers being closed by a splice, the splice comprising an air splice and the two end parts being connected by a splice, in view of Crouch et al., to connect the trailing end to the leading end of the yarn. In addition, splicing /air splicing is well known in the art.

Response to Arguments

Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Annette R. Reimers whose telephone number is (571) 272-7135. The examiner can normally be reached on Monday-Friday.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on (571) 272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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EDUARDO O. ROBERT
SUPERVISORY PATENT EXAMINER